

125 BROAD STREET, 39TH FLOOR NEW YORK, NY 10004-2400

www.sedgwicklaw.com 212.422.0202 phone 212.422.0925 fax



arthur.aizley@sedgwicklaw.com  
valerie.rojas@sedgwicklaw.com

October 25, 2011

Via Electronic Filing

The Honorable Michael A. Shipp  
Martin Luther King Jr. Federal Building &  
U.S. Courthouse  
50 Walnut St., Room 4015  
Newark, NJ 07101

Re: *Sperry Associates Fed. Credit Union v. CUMIS Ins. Society, Inc.*  
Case No. 10-CV-00029-DRD-MAS  
Our File No.: 00480-006356

Dear Judge Shipp:

CUMIS Insurance Society ("CUMIS") respectfully submits this letter in response to Plaintiff Sperry Associates Federal Credit Union's ("Sperry") Second Amended Initial Disclosures served on CUMIS on October 14, 2011. The Court ordered the parties to complete all fact discovery by October 14, 2011. However, on October 14, 2011, Sperry served its Second Amended Initial Disclosures identifying for the first time a new witness, Deborah Thompson. According to Sperry, Ms. Thompson is an employee of the Federal National Mortgage Association ("Fannie Mae") and has knowledge concerning Fannie Mae's purchase of Sperry's real estate mortgage loans from US Mortgage (CU National's parent company), including loans that were sold to Fannie Mae without Sperry's authorization.

Accordingly, on October 20, 2011, CUMIS left voice messages for, and sent emails to, Sperry's attorneys, Ken Pagliughi and Scott Rosenberg, requesting a meet and confer concerning Sperry's identification of a new witness, requesting that Sperry stipulate to CUMIS deposing Ms. Thompson and requesting contact information for Ms. Thompson's attorney.<sup>1</sup> However, neither of Sperry's attorneys responded to the email or phone calls. Therefore, on October 24, 2011, counsel for CUMIS again sent an email to Sperry's counsel requesting a response. Sperry's counsel responded on October 24, 2011, by advising that Sperry would consider CUMIS' request and provide a response on October 25, 2011. On October 25, 2011, Sperry advised that it would not object to CUMIS taking the deposition of Ms. Thompson.

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<sup>1</sup> Sperry did not provide any contact information for Ms. Thompson, but instead referred to her attorneys, "Latham and Watkins" without identifying a specific attorney or office location.

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Accordingly, CUMIS respectfully requests that the Court permit CUMIS to depose Ms. Thompson<sup>2</sup> or strike Sperry's Second Amended Initial Disclosures and prohibit Ms. Thompson from offering testimony in this case. It would be patently unfair to allow Sperry to disclose a new witness on the last day that discovery was ordered to be completed and then deny CUMIS the opportunity to depose the witness.

Very truly yours,

/s/Arthur Aizley

Arthur Aizley  
Valerie Rojas  
Sedgwick LLP

cc: Counsel of Record by Electronic Filing

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<sup>2</sup> Counsel for CUMIS is scheduled to begin a trial in San Francisco Superior Court on October 31, 2011, that it expected to last 2-3 weeks and therefore, CUMIS requests one month to complete the deposition.